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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,629	10/01/2003	Herbert Bachler	36162	7839

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

EXAMINER	
SAUNDERS JR, JOSEPH	
ART UNIT	PAPER NUMBER
2615	
MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/676,629	BACHLER, HERBERT	
	Examiner	Art Unit	
	Joseph Saunders	2615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 July 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-11* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-11* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *01 March 2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to the communication filed July 24, 2007. Claims 1 – 11 are currently pending and considered below.

Election/Restrictions

2. Applicant's election without traverse of claims 1 – 11 reading on Species IV (Figures 4 and 5) in the reply filed on July 24, 2007 is acknowledged.

Specification

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

4. The disclosure is objected to because of the following informalities: Hearing system 1 is not shown in Figure 1 as mentioned on page 7 lines 14 – 16 of the specification. There appears to be no difference between $\overline{Z}_{ac}$ and $\overline{Z}_{acc}$ expect for the figures to which they pertain, and therefore the use of $\overline{Z}_{ac}$ and $\overline{Z}_{acc}$ should be consistent throughout the specification in regards to the figures, or the drawings and the specification should simply refer to one or the other and not both.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent

granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1 and 3 – 10 are rejected under 35 U.S.C. 102(e) as being anticipated by Hohmann et al. (US 7,013,015 B2), hereinafter Hohmann.

Claim 1: Hohmann discloses a hearing system comprising at least one ear-applicable hearing device with an input acoustical/electrical converter arrangement (Figures 1 and 2), said system being controllably operable in one operating status (normal operating status with narrow-band notch filters deactivated) and in at least one second operating status (narrow-band notch filters activated) characterised by a sensing unit (oscillation detector 15) sensing behaviour of an acoustical impedance (changes in acoustic feedback) to an acoustical input (microphone 12) of said input converter arrangement and an evaluation unit (control unit 18) evaluating said sensed behaviour over at least one predetermined behaviour of said acoustical impedance ("calculates"), an output of said evaluation unit controlling change over from said one to said at least one second operating status ("activates") (Column 6 Lines 27 – 29).

Claim 3: Hohmann discloses the system of claim 1 or 2, wherein said hearing device has an output electrical to acoustical converter arrangement (earphone 14), characterised by said sensing unit (oscillation detector 15) sensing stability of an acoustical/electrical feedback loop including said hearing device at an individual (Column 1 Lines 25 – 35).

Claim 4: Hohmann discloses the system of claim 1, characterised by the fact that said sensing unit (oscillation detector 15) and said evaluation unit (control unit 18) is realised by an acoustical/electrical feedback loop including said hearing device at said individual (Column 1 Lines 25 – 35 and Figure 2).

Claim 5: Hohmann discloses the system of claim 1, wherein said first and second operating status comprise operating status of said hearing device (operating status of the notch filters of the hearing aid, Column 4 Lines 51 – 59).

Claim 6: Hohmann discloses the system of claim 1, comprising a second hearing device (hearing aid device 11') operationally connected to said first hearing (hearing device 11) device by a communication link (signal path 17), said first and second operating status comprising status of said second hearing device (hearing aid device 11 and 11' have operating statuses pertaining to notch filters activated and notch filters deactivated at different frequencies and the operating status of each hearing aid device is conveyed on the communication link for comparison, Column 6 Lines 11 – 18).

Claim 7: Hohmann discloses the system of claim 1, comprising a second hearing device (hearing aid device 11') operationally connected to said first hearing device (hearing device 11) by a communication link (signal path 17), said first and second status comprising status of said communication link (hearing aid device 11 and 11' have

operating statuses pertaining to notch filters activated and notch filters deactivated at different frequencies and the operating status of each hearing aid device is conveyed on the communication link for comparison, Column 6 Lines 11 – 18).

Claim 8: Hohmann discloses the system of claim 1, consisting of said hearing device (hearing aid device 11, Figure 2).

Claim 9: Hohmann discloses the system of claim1, wherein said at least one hearing device is an outside-the-ear hearing device or an in-the-ear hearing device or a completely-in-the-canal hearing device ("The invention can be employed in all standard types of hearing aid devices, for example, given hearing aid devices to be worn behind the ear, hearing aid devices to be worn in the ear, implantable hearing aid devices or pocket devices," Column 3 Lines 18 – 21).

Claim 10: Hohmann discloses the system of claim 1, wherein said at least one hearing device is a hearing aid device ("The invention can be employed in all standard types of hearing aid devices, for example, given hearing aid devices to be worn behind the ear, hearing aid devices to be worn in the ear, implantable hearing aid devices or pocket devices," Column 3 Lines 18 – 21).

6. Claims 1 – 2, 5, and 8 – 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Harris et al. (US 6,748,089 B1), hereinafter Harris.

Claim 1: Harris discloses a hearing system comprising at least one ear-applicable hearing device with an input acoustical/electrical converter arrangement (Figures 1 and 2), said system being controllably operable in one operating status and in at least one second operating status ("the hearing aid 10 is switchable among a plurality of operational modes", Column3 Lines 30 – 51) characterised by a sensing unit (SED 102 and NED 104) sensing behaviour of an acoustical impedance (changes in signal and noise envelopes) to an acoustical input (microphone 26) of said input converter arrangement and an evaluation unit (selector 56) evaluating said sensed behaviour over at least one predetermined behaviour of said acoustical impedance, an output of said evaluation unit controlling change over from said one to said at least one second operating status (Column 6 Lines 30 – 47).

Claim 2: Harris discloses the system of claim 1, said predetermined behaviour being caused by applying a hand adjacent to and/or to said hearing device (hand 14 and finger 18, Figure 1).

Claim 5: Harris discloses the system of claim 1, wherein said first and second operating status comprise operating status of said hearing device (parameter sets of the hearing aid, Figure 8).

Claim 8: Harris discloses the system of claim 1, consisting of said hearing device ("This hearing aid aspect of this invention may also be embodied in other conventional configurations of hearing aids such as "in the ear", "in the canal", "behind the ear", the eyeglass type, body worn aids and surgically implanted hearing aids," Column 3 Lines 30 – 51).

Claim 9: Harris discloses the system of claim1, wherein said at least one hearing device is an outside-the-ear hearing device or an in-the-ear hearing device or a completely-in-the-canal hearing device ("This hearing aid aspect of this invention may also be embodied in other conventional configurations of hearing aids such as "in the ear", "in the canal", "behind the ear", the eyeglass type, body worn aids and surgically implanted hearing aids," Column 3 Lines 30 – 51).

Claim 10: Harris discloses the system of claim 1, wherein said at least one hearing device is a hearing aid device ("This hearing aid aspect of this invention may also be embodied in other conventional configurations of hearing aids such as "in the ear", "in the canal", "behind the ear", the eyeglass type, body worn aids and surgically implanted hearing aids," Column 3 Lines 30 – 51).

Claim 11: Harris discloses a method for manually controlling a hearing system with a hearing device comprising applying a hand adjacent to and/or to said hearing device

(Column 3 Lines 30 – 51 and Figures 1 and 2), sensing an acoustical input impedance change caused by said hand to control said hearing system (Figures 8 and 9).

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph Saunders whose telephone number is (571) 270-1063. The examiner can normally be reached on Monday - Thursday, 9:00 a.m. - 4:00 p.m., EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on (571) 272-7564. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JS
August 20, 2007

SINH TRAN
SUPERVISORY PATENT EXAMINER